



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0163]

RIN 1625-AA00

Safety Zone: Tesoro Terminal Protest: Port of Long Beach Harbor;
Pacific Ocean, California

AGENCY: Coast Guard, DHS

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Pacific Ocean to encompass waters within the Port of Long Beach. The safety zone will be established as a result of specific waterside protest at Tesoro Terminals and in support of the safe navigation of all waterway users. Entry into the zone will be prohibited unless specifically authorized by the Captain of the Port, Los Angeles - Long Beach, or her designated representative.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until April 30, 2015. For the purposes of enforcement, actual notice will be

used from the date the rule was signed, March 13, 2015, until
[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of
docket [USCG-2015-0163]. To view documents mentioned in this
preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the
"SEARCH" box and click "SEARCH." Click on Open Docket Folder on
the line associated with this rulemaking. You may also visit the
Docket Management Facility in Room W12-140 on the ground floor of
the Department of Transportation West Building, 1200 New Jersey
Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m.,
Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this
temporary rule, call or e-mail LTJG Jevon James, Waterways
Management, U.S. Coast Guard Sector Los Angeles - Long Beach;
telephone (310) 521-3860, e-mail Jevon.L.James2@uscg.mil. If you
have questions on viewing or submitting material to the docket,
call Barbara Hairston, Program Manager, Docket Operations,
telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule as it would be impracticable due to the short notice of the event and the limited duration this rule will be enforced.

Under 5 U.S.C. 553(d) (3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register due to the short notice of the event and the limited duration this rule will be enforced.

B. Basis and Purpose

The legal basis for this rulemaking can be found in 33 CFR 1.05-1 which authorizes the Coast Guard to establish and define safety zones. With recent local labor disputes, protestors have targeted Tesoro Terminals within the Ports of Los Angeles - Long Beach. The Coast Guard anticipates water based demonstrations which may impede the safe navigation of vessels coming to and

leaving Tesoro Terminals, as well as the demonstrators themselves. Thus, the Coast Guard is establishing a temporary safety zone on all navigable waters of the Pacific Ocean, from the surface to the sea floor, 100 yards in all direction of the following berths in the Port of Long Beach: Pier B 76-77, Pier B 84-87, and Pier T 121.

C. Discussion of the Final Rule

The U.S. Coast Guard is establishing a temporary safety zone encompassing all navigable waters from the surface to the sea floor, 100 yards in all direction of the following berths in the Port of Long Beach: Pier B 76-77, Pier B 84-87, and Pier T 121. The temporary safety zone will be enforced throughout each day. During the enforcement period, vessels are prohibited from entering into, transiting through, or anchoring within the designated area unless authorized by the Captain of the Port or her designated representative. Sector Los Angeles - Long Beach may be contacted on VHF-FM Channel 16 or 310-521-3801. General boating public will be notified prior to the enforcement of the temporary safety zone via Broadcast Notice to Mariners.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

The implementation of this temporary safety zone is necessary for the protection of all waterway users. The size of the zone is the minimum necessary to provide adequate protection for the waterways users, adjoining areas, and the public. Any hardships experienced by persons or vessels are considered minimal compared to the interest in protecting the public. Accordingly, full regulatory evaluation under paragraph 10(e) of the regulatory policies and procedures of the DHS is unnecessary.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a

substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor within the designated area during the designated enforcement times. This temporary safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) vessel traffic can pass safely around the area, (ii) this zone is limited in scope and duration, (iii) the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 prior to and while the safety zone is enforced.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these

actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety

that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is

categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 1.16 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T11-687 to read as follows:

§ 165.T11-687 Safety Zone: Tesoro Terminal Protest: Port of Long Beach Harbor; Pacific Ocean, California

(a) Location. The limits of the safety zone are as follows: encompassing all navigable waters of Captain of the Port

Zone LA - LB from the surface to the sea floor, within 100 yards in all direction of the following berths in the Port of Long Beach: Pier B 76-77, Pier B 84-87, and Pier T 121.

(b) Enforcement Period. This section will be enforced throughout the entirety of each day from March 13-April 30, 2015. The general boating public will be notified prior to the enforcement of the temporary safety zone via Broadcast Notice to Mariners.

(c) Regulations. In accordance with the general regulations in § 165.23 of this part, vessels are prohibited from entering into, transiting through, or anchoring within the designated area unless authorized by the Captain of the Port or her designated representative. Sector Los Angeles - Long Beach may be contacted on VHF-FM Channel 16 or 310-521-3801.

Dated: March 13, 2015

J. F. Williams,
Captain, U.S. Coast Guard,
Captain of the Port Los Angeles - Long Beach.

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4/2/2015]